Court No.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

(1) **First Appeal No. 446 of 2001** (Old No.541 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ranveer Singh …….. Respondent.

(2) **First Appeal No. 527 of 2001** (Old No.452 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Smt.Raj Rani …….. Respondent.

(3) **First Appeal No. 435 of 2001** (Old No.530 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ansuia Prasad …….. Respondent.

(4) **First Appeal No. 436 of 2001** (Old No.531 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ram Das …….. Respondent.

(5) **First Appeal No. 439 of 2001** (Old No.534 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Digamber Singh …….. Respondent.

(6) **First Appeal No. 440 of 2001** (Old No.535 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Pratap Singh …….. Respondent.

(7) **First Appeal No. 441 of 2001** (Old No.536 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Nathan Singh …….. Respondent.

(8) **First Appeal No. 443 of 2001** (Old No.538 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Trilok Singh …….. Respondent.

(9) **First Appeal No. 444 of 2001** (Old No.539 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Daljeet Chand …….. Respondent.

(10) **First Appeal No. 447 of 2001** (Old No.542 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Rajendra Prasad …….. Respondent.

(11) **First Appeal No. 448 of 2001** (Old No.543 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Prem Singh …….. Respondent.

(12) **First Appeal No. 449 of 2001** (Old No.544 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Gopal Singh …….. Respondent.

(13) **First Appeal No. 450 of 2001** (Old No.545 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Brij Lal …….. Respondent.

(14) **First Appeal No. 533 of 2001** (Old No.448 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Nanku …….. Respondent.

(15) First Appeal No. 530 of 2001 (Old No.449 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Om Prakash …….. Respondent.

(16) First Appeal No. 529 of 2001 (Old No.450 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Bachi Ram …….. Respondent.

(17) First Appeal No. 528 of 2001 (Old No.451 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Govind Singh …….. Respondent.

(18) First Appeal No. 634 of 2001 (Old No.495 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Rewat Suingh …….. Respondent.

(19) First Appeal No. 635 of 2001 (Old No.496 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Lajwanti …….. Respondent.

(20) First Appeal No. 636 of 2001 (Old No.497 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Madan Singh …….. Respondent.

(21) First Appeal No. 637 of 2001 (Old No.498 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Bhim Singh …….. Respondent.

(22) First Appeal No. 638 of 2001 (Old No.499 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Bhagirathi Devi …….. Respondent.

(23) First Appeal No. 1016 of 2001 (Old No.502 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Babu Lal …….. Respondent.

(24) First Appeal No. 641 of 2001 (Old No.504 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Nathi Ram …….. Respondent.

(25) First Appeal No. 1015 of 2001 (Old No.505 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ram Chandras …….. Respondent.

(26) First Appeal No. 1020 of 2001 (Old No.507 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ram Singh …….. Respondent.

(27) First Appeal No. 1017 of 2001 (Old No.509 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Kunwar Singh & anr …….. Respondent.

(28) First Appeal No. 1014 of 2001 (Old No.510 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Sunder Singh …….. Respondent.

(29) First Appeal No. 1018 of 2001 (Old No.511 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Surpya Prakash …….. Respondent.

(30) First Appeal No. 1011 of 2001 (Old No.514 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Naraian Singh …….. Respondent.

(31) First Appeal No. 432 of 2001 (Old No.517 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Bhoop Singh …….. Respondent.

(32) First Appeal No. 433 of 2001 (Old No.518 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ram Nath …….. Respondent.

(33) First Appeal No. 434 of 2001 (Old No.519 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ishwar Singh …….. Respondent.

(34) First Appeal No. 437 of 2001 (Old No.532 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Bali Chand …….. Respondent.

(35) First Appeal No. 438 of 2001 (Old No.533 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Chet Ram …….. Respondent.

(36) First Appeal No. 442 of 2001 (Old No.537 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Mohar Singh …….. Respondent.

(37) First Appeal No.300 of 2001 (Old No.563 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Sultan Singh …….. Respondent.

(38) First Appeal No. 1023 of 2001 (Old No.508 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Inder …….. Respondent.

(39) First Appeal No. 1013 of 2001 (Old No.513 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Sunder Singh …….. Respondent.

(40) First Appeal No. 445 of 2001 (Old No.540 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Ram Singh …….. Respondent.

(41) First Appeal No. 1022 of 2001 (Old No.512 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Mahendra Singh …….. Respondent.

(42) First Appeal No. 1021 of 2001 (Old No.516 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Parsa …….. Respondent.

(43) First Appeal No. 1012 of 2001 (Old No.515 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Swaroop Singh …….. Respondent.

(44) First Appeal No. 531 of 2001 (Old No.446 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Atru alias Atar Singh …….. Respondent.

(45) First Appeal No.532 of 2001 (Old No.447 of 1991)
The Collector, Dehradun & Anr……. Appellant/Opp.party.

Versus

Bhagwan Singh …….. Respondent.

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Date: 25th Sept.,2004

Hon'ble P.C.Verma,J.
Hon'ble B.S.Verma,J.

All these appeals have been filed by the appellant/Opp.-Party-Uttar Pradesh State Industrial Development Corporation **(in short UPSIDC)** under Section 54 of the Land Acquisition Act, 1894 ***(in short the Act)*** against the separate judgment and award made on reference under Section 18 of the Land Acquisition Act by the Reference Court (III Additional District Judge, Dehradun) dated 10.05.1991.

2- In all these appeals, the judgment under appeals, have been challenged by the appellant on common grounds. No appeal has been argued separately on any this one and common judgment.

3- Brief facts giving rise to these appeals are that 245.91 acre of land belonging to Village-Central Hope

Town, Sub Division Pachhawa Doon, Tehsil & District-Dehradun was acquired by the Collector, Dehradun for the UPSIDC for developing an Industrial Complex. The Notification under Section 4(1) of the Act was issued on 08.05.1985. The UPSIDC has taken over the possession of said acquired land on 17.03.1986. The Special Land Acquisition Officer, Dehradun ***(in short the S.L.A.O.)*** awarded the compensation at the rate of Rs.1,15,391.46 for a portion of land, Rs. 96,000/- for other potion of land and Rs. 86,000/- per acre for third portion of land. The total compensation was paid accordingly to each landholder whose land was acquired. Feeling aggrieved on payment of lesser rate of compensation, the landholders made a reference under Sec. 18 of the Act. By the impugned award dated 10.05.1991, the rate has been fixed as Rs. 1,50,000/- per acre.

4- Before the Reference Court all these respondents alleged that the compensation awarded to them is highly inadequate. The acquired land, related to the references, was belonged to Village-Central Hope Town, Sub Division Pachhawa Doon, Tehsil & District Dehradun and was situated at Chakrata Road-20 Kms. Away form Dehradun city. The said land was plane land and had a high potential value. It had all the facilities like; water, electricity, road, bus-service etc.. In the adjoining land, several industrial units have been established. Near this acquired land, besides the above facilities, the facilities of telephone, school, hospital, bank, Post Office and petrol pump are available. The S.L.A.O. had incorrectly determined the compensation on the basis of settlement year 1937-38 which was the last settlement. It was further alleged that prior to Notification under Sec.4 of the Act the rate of said acquired land was above Rs. 40,000/- per Bigha, due to

which the claimants/applicants are entitled to get compensation at the rate more than Rs. 50,000/- per Bigha alongwith 30% solatium and interest etc.

5- The reference cases were opposed by the opposite party-UPSIDC by filing its written objections in which it has been stated that the compensation awarded is adequate, just and reasonable. The rate of compensation has been determined on the basis of sale transaction and in accordance with law and the exemplar which represented the true market value of the land was chosen and made the basis of the award. The acquired land is agriculture land and no facility of electricity etc. is there. The compensation has been awarded to the owners of the land on the basis of the quality of the land and, therefore, no illegality or irregularity has been committed by the S.L.A.O. in giving the award for the acquired land.

6- The Reference Court framed necessary issued on the points raised by the parties and after scrutinising the evidence adduced by the parties held that the compensation paid by the S.L.A.O. at the rate of Rs. 96,000/- per acre based on the sale deed dated 22.01.1985 is inadequate and the applicants/respondents are entitled to get compensation of the acquired land at the rate of Rs. 1,50,000/- per acre. Feeling aggrieved, the UPSIDC has come up in these appeals.

7- Sri Sharad Sharma, learned counsel for the appellant in all these appeals pressed these appeals only on the following two grounds:-

(i) That the learned Additional District Judge has made the award on the basis of only one exemplar of sale deed dated 22.1.1985, which was for 0.81 acre, for a huge chunk of land measuring 245.91 acres. The exemplar relied on by the Adl. District Judge was not admissible in

evidence inasmuch as no certified copy was filed before the S.L.A.O. in absence of certified copy, the Xerox copy was required to be proved either by the vendor or by the vendee. The Addl. District Judge fell into error in holding the said sale deed as exemplar by applying the provisions of Sec.51A of the Act, which attracts only in case a certified copy is filed;

(ii) That a huge chunk of land was acquired and the award has been made by the reference court on flat rate of Rs. 1,50,000/- per acre. The Addl. District Judge ought to have applied either the classification of the land or belting system or one-third deduction.

8- Sri Ashok Aggarwal, learned counsel for the respondents in all these appeals submitted that the land acquired though is a huge chunk of land but is situated in a well defined and developed block surrounded by road from all the directions. It constitutes a compact of developed area. Therefore, the Addl. District Judge has rightly awarded the compensation at the flat rate, as the potentiality of the entire land was same in view of the location of the land. It was declared an industrial area and industries were situated there.

9- The contention submitted by the learned counsel for the appellant that the Addl. District Judge has relied only one exemplar and made award for a huge chunk of land has been thoroughly dealt with by the reference court. The reference court has held that it was a compact developed area surrounded by the roads and the exemplar of sale deed dated 22.01.1985 was for 0.81 acre which was executed four months before the date of notification under Sec. 4 of the Act. The exemplar relied on by the appellant- UPSIDC was dated 22.2.1985 The learned Addl, District Judge has rightly found that no sale consideration was

paid before the Sub Registrar and it was for a small piece of land measuring 250 Sq. feet X 50 Sq. feet i.e. 1334 Sq. Metres. The reference court has further relied on the Government Order No. 9/23/81-708-Ra-2, Revenue Anubhag, dated 6th July, 1981 filed by the respondents and Para 221 (o) of the Land Acquisition Manual applicable in the State of U.P. for relying on the exemplar which was at a highest rate. Provision of Para 221 (o) of the said Manual has been reiterated in the G.O. dated 6th July, 1981, by which the Government has itself directed to rely on the exemplar which is on the higher side, so that the claimants whose land have been acquired may not have any grievance.

10- As regards the admissibility of the sale deed relied on by the learned Addl. District Judge is concerned, it is not disputed that the certified copy was filed before the reference court which is an admissible document under Section 51A of the Act. Sec. 51A provides that in any proceeding under the Registration Act, 1908 including a copy given under section 57 of the Act, may be accepted as evidence of the transaction recorded in such document. The learned Addl. District Judge has also considered the evidence of D.W.1-Sri Kamal Chnad Ramola who was examined by the appellant/Opp.party. In his statement on oath he had admitted that he entire acquired land is surrounded, by the industrial area. In view of this statement, the potentiality of the land has rightly been taken to be equal for entire area of land acquired. Considering the potentiality on the basis of evidence on record before the Addl. District Judge, he has rightly determined the rate of compensation at a flat rate. Thus, the first contention of the learned counsel for the appellant.

Has no force. The Reference Court has rightly decided this point. Accordingly, we confirm the judgment of this point.

11. So far as the second contention of the learned counsel for the appellant that either the classification or belting system or one-third deduction ought to have been applied. This contention of the learned counsel for the appellant is contrary to the evidence led by the appellant. The statement of his own witness D.W.1-Sri Kamal Chand Ramola, who has stated in his cross-examination that industries are there on and in the surrounding of the acquired land. It is a developed land closed by at a distance of – 1/2 Kms. From the road. School, water and electricity line, banks are there and Dehradun-Chakrata Road was passing through the midst of the acquired land. Thus, the reference court rightly held that though the land acquired was a huge chunk of land but it was a developed block and was having potentiality and awarded the compensation at a flat rate of Rs.1,50,000/- per acre. The Apex Court in the case ***Meharban and others versus State of U.P. and others, reported in (1997) 6 Supreme Court Cases, Page 54*** has held that if the entire land is situate in well-defined and developed blocks application of belting system is not applicable. Since the land is situate within the industrial area, therefore the learned Addl. District Judge rightly disagreed with the finding of the classification made by the S.L.A.O. treating it to be agriculture land.

12- Sri Ashok Aggarwal, learned counsel for the respondents prays that Photostat copy of award dated 7.6.1990 made in Case No. 25-(1987-88) may be taken on record, for the reason that in making such award the Collector, Dehradun has relied on the same exemplar which has not been relied on by the Collector in these cases while the land acquired in these cases was part of the chunk of

The same land. The same be kept on record as it is not disputed by the other side. The Apex Court in the case of Nand Ram & others versus The state of Haryana, reported in All India Land Acquisition and Compensation Cases, Volume 3, 1989, Page 1 has held that the State cannot refuse to pay in respect of lands acquired under the same notification compensation awarded to the land owners whose similarly situated lands had been acquired under the same notification for the same purpose by the Notification of the same date. In view of the law laid down by the Apex Court, the Collector has erred in not relying the same exemplar.

13- The exemplar relied on by the learned Addl. District Judge has been relied on by the Collector in the subsequent notification for granting compensation for acquisition dated 03.6.1987 for an area of 2.17 acre and has paid compensation at the rate of Rs. 2.5 lakh per acre The Apex Court in the case of Karan Singh and others versus Union of India, reported in (1997) 8 Supreme Court Cases, Page 186 has held that the previous judgments of courts in land acquisition cases or awards given by the Land Acquisition Officers can be made basis to determine the market value of the subsequent land acquired.

14- In these appeals, compensation at the lesser rate has been paid by the Reference Court by the impugned award on the basis of exemplar of sale deed dated 22.1.1985 while on the basis of same exemplar the S.L.A.O. has granted higher compensation in the land acquisition proceedings in which notification under Sec. 4 of the Act was issued on 3.6.1987. Therefore, in these appeals the compensation awarded by the Reference Court is perfectly just and proper.

15- So far as one-third deduction is concerned, it has been held by the Apex Court in the case of Kasturi and others versus State of Haryana, reported in (2003) 1 Supreme Court Cases, Page 354 that normally 1/3rd amount of compensation has to be deducted out of amount of compensation towards development charges subject to certain variations. The learned Addl. District Judge has relied upon the sale deed dated 22.1.1985 which is of the area of 0.81 acre to determine the market value for payment of compensation. The consideration was based in sale deed of Rs. 1,80,000/- per acre but in the facts and circumstances of the case, the learned Addl. District Judge deducted Rs. 30,000/- which is approximately 17%. In view of the law down by the Apex Court in Kasturi and others versus State of Haryana (supra) the finding given by the learned Additional District Judge does not call for any interference.

16- For the reasons recorded above the appeals are devoid of merit and are herby dismissed. No order as to costs.

(B.S.Verma,J.) **(P.C.Verma,J.)**

P.Singh